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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,745	02/16/2001	Robert E. Zack	FREIT-005A	5531
7663	7590	03/22/2004	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,745

Applicant(s)

ZACK ET AL.

Examiner

Michael Cuff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes et al. in view of Shaw (6,568,596).

Hughes et al. shows all of the limitations of the claims except for specifying generating a re-order and using an external communication device/global computer network.

Hughes et al. shows, figure 1, methods and apparatus for tracking and displaying objects. The system has a central computer 4 (controller/PC) and a location processor 8 (transponder communications device). Column 6 shows all items in a particular area, which are potentially of interest to the user, are tagged with a transponder 14 and linked with a corresponding data element from a database. The 3DPOS system can be in operation for some given area or areas in each retail outlet, consisting of an entire floor, a department on a floor, or a storage or warehousing region, for instance. The presence of walls or barriers can adversely affect the operation of the system, particularly the ability to accurately determine the location of tags, because radio waves are severely attenuated and distorted by these obstructions. To avoid these difficulties, in one embodiment of the present invention, independent receiver array sets (multiple

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boundaries) are used in each room or area of interest and each room or area is polled sequentially or independently. Bar-code technology can be used to forward each transponder ID number to the central processor, and by printing the bar-code of the transponder's ID number onto each transponder, the entries can be easily added and deleted. When an item is removed from the surveillance area 12 (e.g., because it was permanently removed or sold) (purchase status), its ID number is removed from the active list, and it will no longer be polled to determine its location. Column 9, lines 65-67, shows a restricted area may be defined near an exit at a retail store or warehouse so that personnel can be notified (generate an alert) for instances where tagged objects may be improperly removed.

Shaw teaches (column 1, lines 20-22, and column 2, lines 31-33) an XML based barcode scanner. It is an object of the invention to convert bar code data into data that is easily published on the Internet (external communication device/global computer network) or used by e-commerce applications. The features can be published as spreadsheet data, interactive business forms or perhaps as charts that could trigger automatic re-order of inventory (generating a re-order) in order to improve inventory procedures.

Based on the teaching of Shaw, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the bar code data of Hughes et al. into the XML format of Shaw, thus enabling the use of global computer network with potential automatic re-ordering, in order to improve inventory procedures.

R sponds to Arguments

Applicant's arguments filed 12/29/03 have been fully considered but they are not persuasive.

Applicant asserts that a prima facie case has not been made. The examiner does not concur. Please re-read rejection.

Applicant asserts that the rejection applies hindsight. The examiner does not concur. Please read the background of Shaw. There is proper motivation to apply the teachings of Shaw in many different applications including the system of Hughes et al.

Applicant asserts that the combination does not show an automated security and reorder system. The examiner does not concur. The only claimed element, which is security related is generating an alarm. Hughes et al. meets this broadly recited limitation. Shaw teaches the re-order.

Applicant asserts that there is no mention of why one would be motivated to combine the references. The examiner does not concur. Please re-read rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Cuff 3/18/04
Michael Cuff
March 18, 2004